

UNITED STATES DISTRICT COURT
 for the
Eastern District of Michigan

United States of America

v.

Wisam Gharib HAMANA

Case: 2:19-mj-30389
 Assigned To : Unassigned
 Assign. Date : 7/22/2019
 Description: SEALED MATTER (MAW)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 25, 2019 in the county of Wayne in the
Eastern District of Michigan, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
8, United States Code, Section 1253(a)(1)(C)	Hampering Removal

This criminal complaint is based on these facts:

On or about June 25, 2019, in the Eastern District of Michigan, Southern Division, Wisam Gharib HAMANA, an alien against whom a final order or removal was outstanding, knowingly took action with the purpose of preventing and hampering his removal from the United States; in violation of Title 8, United States Code, Section 1253(a)(1)(C).

Continued on the attached sheet.


 Complainant's signature

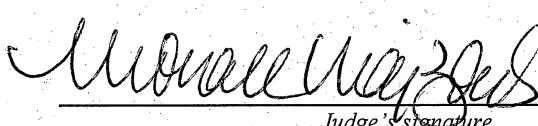
Trent Horky, Deportation Officer
 Printed name and title

Sworn to before me and signed in my presence.

JUL 22 2019

Date: _____

City and state: Detroit, Michigan


 Judge's signature

Mona K. Majzoub, United States Magistrate Judge

Printed name and title

Affidavit

I, Trent Horky being duly sworn, do hereby state:

1. I am a Deportation Officer with the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE) and have been employed in this capacity since April 2006. The facts set forth herein are based upon my personal knowledge as well as information provided by other law enforcement officers to include Immigration Enforcement Officers and record checks of law enforcement databases. I have also reviewed the immigration file and system automated data relating to Wisam Gharib HAMANA, which attests to the following:
2. HAMANA is a 39-year-old male, native and citizen of Iraq, who entered the United States on May 12, 1983 at New York, New York as a Refugee.
3. On February 2, 1999, HAMANA was convicted in the 52-4 District Court at Troy, MI for the offense of Retail Fraud - 2nd Degree and sentenced to fines/costs.
4. On July 13, 2002, HAMANA was convicted in the 37th District Court at Warren, MI for the offense of Attempt Possession of Analogues in violation of MCL 333.74032B-A(A) and Controlled Substance - False Prescription in violation of MCL 333.17766C. For this offense, HAMANA was sentenced to fines/costs and a 180 day suspended license.
5. On November 19, 2002, HAMANA was convicted in the 6th Circuit Court at Pontiac, MI for the offense of Stolen Property - Receiving and Concealing \$1,000.00 or more but less than \$20,000.00 in violation of MCL 750.5353A. For this offense, HAMANA was sentenced to 91 jail days and two (2) years of probation.
6. On December 5, 2003, HAMANA was convicted in the 43rd District Court at Hazel Park, MI for the offense of Disorderly Conduct (Ordinance Violation). For this offense, HAMANA was sentenced to fines/costs.
7. On August 25, 2010, ERO Detroit encountered HAMANA at his residence located in Warren, MI during Operation Crosscheck Midwest. HAMANA was transported to the ERO Detroit Field Office and served form I-862, Notice to Appear (NTA), pursuant to Sections 237(a)(2)(B)(i) and

237(a)(2)(A)(ii) of the Immigration & Nationality Act (INA) as amended.

8. On September 29, 2010, an Immigration Judge (IJ) in Detroit, MI ordered HAMANA removed from the United States to Iraq; HAMANA opted to waive his appeal.
9. On April 20, 2011, HAMANA was convicted in the 16th Circuit Court at Mt. Clemens, MI for the offense of Assault with a Dangerous Weapon and Controlled Substance - Possession of Marijuana. For this offense, HAMANA was sentenced to 248 days in jail.
10. On August 22, 2011, ERO Detroit released HAMANA on an Order of Supervision.
11. On March 13, 2012, HAMANA was convicted in the 16th Circuit Court at Mt. Clemens, MI for the offense of Assault with a Dangerous Weapon. For this offense, HAMANA was sentenced to 180 days in jail.
12. On April 2, 2012, HAMANA was taken into ERO custody based on the recent conviction for Assault; ERO Detroit served HAMANA a Notice of Revocation of Release.
13. On May 7, 2012, ERO Detroit released HAMANA on an Order of Supervision.
14. On June 4, 2013, HAMANA was convicted in the 3rd Judicial Circuit Court for the offense of Stolen Property – Receiving and Concealing. For this offense, HAMANA was sentenced to 12 months' incarceration.
15. On June 11, 2017, ERO Detroit encountered HAMANA at his residence located in Warren, MI during Operation Crosscheck. HAMANA was transported to the ERO Detroit Field Office and served with a Notice of Revocation of Release for failure to provide an Iraqi travel document.
16. On June 30, 2017, HAMANA filed a request for Stay of Deportation, which was granted by an IJ on July 6, 2017, pending a decision on the Motion to Reopen.
17. On June 30, 2017, HAMANA filed a motion to reopen his removal proceedings, which was granted by an IJ on August 29, 2017.

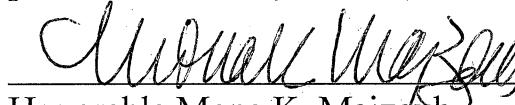
18. February 26, 2018, an IJ in Detroit, MI ordered HAMANA'S application for withholding of removal under the Immigration and Nationality Act be denied, HAMANA'S application for deferral of removal under the Convention Against Torture be denied, and HAMANA be removed to Iraq based on the charges of removal in his NTA. HAMAMA did not appeal this order.
19. On March 8, 2018, an IJ in Detroit, MI denied HAMANA'S request for bond. On April 5, 2018, HAMANA filed a Bond Appeal with the Board of Immigration Appeals (BIA), which was dismissed on July 6, 2018.
20. On December 19, 2018, HAMANA was released from ICE custody on an order of supervision ("OSUP") pursuant to the Honorable Mark A. Goldsmith's November 20, 2018 Opinion and Order in the *Hamama v. Adducci* case. The OSUP required HAMANA to "appear in person at the time and place specified, upon each and every request of the agency, for identification and for deportation or removal" and "enrollment and successful participation in an Alternative to Detention (ATD) program" which included "electronic monitoring" via a GPS tether. The OSUP warned HAMANA that failure to comply with the OSUP could subject him to criminal prosecution. HAMANA nevertheless violated the conditions of his OSUP as set forth below.
21. On March 13, 2019, the government of Iraq issued a travel document for HAMANA's removal from the United States.
22. HAMANA was scheduled for return to Iraq on June 25, 2019. On June 18, 2019, HAMANA was instructed to meet officers at the Detroit Metropolitan Airport on June 25, 2019, at 3:30pm for his scheduled removal.
23. On June 25, 2019, at approximately 4:03pm HAMANA cut his tether in Detroit, Michigan and discarded it around 7 Mile Road and Keating Street.
24. Attempts to contact HAMANA yielded negative results and his whereabouts are currently unknown.

25. Therefore, I have probable cause to believe that Wisam Gharib HAMANA, an alien against whom a final order of removal was outstanding, knowingly took action, namely the removal of his tether and failure to appear at the airport for his scheduled removal flight, with the purpose of preventing and hampering his removal from the United States, in violation of Title 8, United States Code, Section 1253(a)(1)(C).



Trent Horky, Deportation Officer
U.S. Department of Homeland Security

Sworn to before me and signed in my presence and/or by reliable electronic means.



Honorable Mona K. Majzoub
United States Magistrate Judge